



22 August 2017

Our reference: LEX 31259

Mr James Smith

By email: foi+request-3829-bab54e9b@righttoknow.org.au

Dear Mr Smith

Freedom of Information Request – Charges and Third Party Consultation notification

I refer to your request dated 8 August 2017 and received by the Department of Human Services (the **department**) on the same date, for access under the *Freedom of Information Act 1982* (the **FOI Act**) to the following:

'I request documents related to the ten most recent instances where an employee has sought information, advice, guidance, or opinion on their social media use in a private capacity.

I limit the scope of documents to:

- the original request from the employee
- the agency/department's response
- any follow-up questions and response
- only those sent to a relevant HR / conduct / social media (or similar) team (rather than managers across all areas of the organisation)
- where the original request was created in the last 2 years'

Preliminary Assessment of the Charge

In accordance with section 29 of the FOI Act, I have decided that you are liable to pay a charge for the processing of your request. My preliminary assessment of that charge is \$420.85 calculated as follows:

Search and retrieval time: 2.55 hours, at \$15.00 per hour:	\$38.25
Decision-making time (*after deduction of 5 hours): 19.13 hours, at \$20.00 per hour	\$382.60
TOTAL	\$420.85

*The FOI Act provides that the first five hours of decision-making time are free of charge and this is reflected in the calculation.

Required Action

If you would like the department to continue processing your request, you must notify the department in writing within 30 days of receiving this notice that you:

- a) agree to pay the charge;



- b) wish to contend that the charge:
 - i. has been wrongly assessed; or
 - ii. should be reduced or not imposed; or
 - iii. both
- c) withdraw the request for access.

If you do not provide a written response in accordance with one of Options a), b) and c) above within 30 days of receiving this notice, your request will be taken to have been withdrawn under section 29(2) of the FOI Act.

Alternatively you may wish to refine the scope of your FOI request. If you would like to discuss this please contact me for assistance.

Further information on options a), b) and c) is set out below.

Option a) - pay the charge

As the charge exceeds \$100, you are required to pay a 25% deposit, being \$105.20 within 30 days of receiving this notice. You may, of course, elect to pay the charge in full at this point.

The amount due should be paid by cheque or money order made out to the Collector of Public Monies. Please quote the reference number FOI LEX 31259 with your payment.

Should you elect to pay the charge please email FOI.Legal.Team@humanservices.gov.au once you have posted your cheque or money order to advise us of your payment.

Option b) - seek reduction or non-imposition of the charge

You may contend that the charge has been wrongly assessed, should be reduced or not imposed. Section 29(5) of the FOI Act provides that, in deciding whether to reduce or not to impose a charge, the decision-maker must take into account any relevant reasons, including whether payment of the charge, or part of it, would cause you financial hardship, and whether the giving of access to the documents is in the general public interest or in the interest of a substantial section of the public.

If you wish to contend that the charge has been wrongly assessed or should be reduced or not imposed, please set out your reasons and the evidence in support of your reasons as clearly as possible. If you believe that payment of the charge would cause you financial hardship, please provide sufficient details of your financial circumstances to enable the decision-maker to make a well-informed decision in this regard.

Option c) - withdraw your request

If you wish to withdraw your request you may do so by emailing me at FOI.Legal.Team@humanservices.gov.au.

Third-party consultation - documents affecting personal privacy

Section 27A of the FOI Act provides:

(1) This section applies if:

- (a) A request is made to an agency or minister for access to a document containing personal information about a person (including a person who has died); and

(b) It appears to the agency or minister that the person or the person's legal personal representative (the **person concerned**) might reasonably wish to make a contention (the **exemption contention**) that:

- (i) The document is conditionally exempt under section 47F; and
- (ii) Access to the document would, on balance, be contrary to the public interest for the purpose of subsection 11A(5).

Searches have identified that your request covers documents containing another individual's personal information. The department is required to consult with that individual under section 27A of the FOI Act before making a decision on the release of those documents.

The department will take into account any comments we receive from the individuals. However, the final decision about whether to grant you access to the documents requested rests with the department.

Timeframes for processing your request

Charges

Section 31 of the FOI Act provides that where a notice is sent to an applicant regarding the payment of a charge in respect of a request, the time limit for processing the request is suspended from the date the notice is received until either:

- (a) the day following payment of the charge (in full or the required deposit); or
- (b) if applicable, the day following the notification to the applicant of a decision not to impose the charge.

Third party consultation

Your request was received by the department on 8 August 2017 and that the 30 day statutory period for processing your request commenced from the day after that date.

This statutory period has been extended by 30 days under section 15(6) of the FOI Act in order to allow the department time to consult with third parties.

Address for correspondence

Please send all correspondence regarding your FOI request to me at the following address:

Freedom of Information team
Department of Human Services
PO Box 7820
CANBERRA ACT 2610

Or by email to FOI.LEGAL.TEAM@humanservices.gov.au

Further assistance

If you have any questions please email FOI.LEGAL.TEAM@humanservices.gov.au.

Yours sincerely

Chelsea
Authorised FOI Decision Maker
Freedom of Information Team
FOI and Litigation Branch Legal Services Division
Department of Human Services